



Expires – Upon Issuance of LPP

Safe Harbor Indirect Cost Rate for Consultant Contracts

NOTE: This Office Bulletin (OB) supersedes DLA-OB 13-07R

I. BACKGROUND

Based on the Safe Harbor Rate (SHR) guidance from the Federal Highway Administration (FHWA) in 2019, each State Department of Transportation (DOT) should implement its own safe harbor indirect cost rate. Subsequently, Caltrans Division of Procurement and Contracts (DPAC) developed and updated its SHR. The Division of Local Assistance (DLA) is adopting DPAC's SHR process and rates. These rates are applicable for use on federally funded local agency projects.

Consulting Architectural & Engineering (A&E) firms providing engineering and design related services under a contract funded by a federal grant, are required by regulation (as specified in 2 Code of Federal Regulation (CFR) Part 200) to account for and bill costs in accordance with the Federal Cost Principles of 48 Part CFR 31. In order to comply with the Federal Cost Principles, A&E consulting firms that provide services on federal-aid highway projects are required to develop indirect cost rates (ICR) in accordance with the Federal Cost Principles on an annual basis.

Developing ICRs annually can place a significant burden on some A&E consulting firms and may create a barrier for otherwise eligible and qualified firms to compete for federally funded contracts. For example, small firms including many Disadvantaged Business Enterprise (DBE) firms, may lack the financial sophistication to develop an ICR, or lack the resources to hire a Certified Public Accountant (CPA).

CPA's are hired to conduct an audit and to provide assurance as to the development of an ICR compliant with federal requirements. Additionally, new or start-up firms generally do not have a contract-related cost history to use as a base for development of an ICR. Other established A&E consulting firms may not have previous experience with federally funded contracts for which an ICR would have been developed in compliance with Federal Cost Principles.

To help alleviate and remove potential barriers, DPAC has developed a "Safe Harbor Rate" (SHR), an ICR that DLA is adopting and to be utilized by eligible A&E consultant firms on a voluntary basis. The Local Assistance Procedures Manual (LAPM) Chapter 10: Consultant Selection will be revised accordingly with new language under Section 10.1.3 to include the DLA SHR policy and procedure. See Attachment 1, Draft Chapter 10: Consultant Selection, Section 10.1.3, new Safe Harbor Rate language.

II. POLICY

DLA is adopting DPAC's SHR process and rates and effective immediately, all eligible A&E consultant firms can choose to use the SHR rate on new A&E contracts using federal-aid highway funds executed by local agencies in the State of California.

The SHR information and rates can be found at the following DLA A&E website:
<https://dot.ca.gov/programs/local-assistance/guidance-and-oversight/consultant-selection-procurement>.

Use and application of the SHR by eligible firms is one component of this risk-based oversight process and is incorporated into written risk-based oversight procedures to provide reasonable assurance of consultant compliance with the federal cost principles per 23 CFR Part 172.11(c)(2). A&E consulting firms approved to use the established SHR will have their accounting system evaluated for capabilities of accumulating and tracking direct labor for applying the SHR, as well as for billing other direct costs by contract, segregating indirect costs, etc.

Use of the SHR is voluntary on behalf of the A&E consulting firm and local agencies. Local agencies have the discretion to determine certification of eligibility based on requirements shown on the following SHR certification form: [Consultant Firm Certification of Eligibility and Certification of Financial Management System](#).

III. PROCEDURE

A&E consultant firms (prime and/or sub consultants) that have not had an ICR previously accepted by a cognizant agency and electing/requesting to use the SHR in a contract are required to submit the completed SHR form including Questionnaire for Evaluating Consultant Firm's Financial Management System section, [Consultant Firm Certification of Eligibility and Certification of Financial Management System](#), and any other documents as needed. This requirement is in addition to the A&E Consultant Audit and Review Process requirement described in Local Assistance Procedures Manual (LAPM), Chapter 10, Section 10.1.3.

Local Agencies Responsibilities:

Local agencies are responsible to ensure all procedures are set forth and these instructions are followed. Specifically, local agencies are required to:

- Collect and screen all requests to use the safe harbor indirect cost rate. See SHR form [Consultant Firm Certification of Eligibility and Certification of Financial Management System](#) including the Questionnaire for Evaluating Consultant Firm's Financial Management System section.
- Local Agencies are to submit all documents, including SHR documents and other required documents, for all participating consultants at the same time to the Independent Office of Audits & Investigations (IOAI) for review. See LAPM Chapter 10, Section 10.1.3 for requirements and audit request packets. The IOAI email address is: Conformance.Review@dot.ca.gov

Requests to use the safe harbor indirect cost rate must be accepted/approved by IOAI **before** contracts are executed.



IV. APPLICABILITY/IMPACTS

This policy applies to all federal-aid highway projects.

Recommended: Original Signature by 09/08/21
The Pham _____
Acting A&E Oversight Program Manager Date

Approved: Original Signature by 09/08/21
Bruce Roberts, Acting Office Chief _____
Office of Guidance and Oversight Date

Attachment:
1 –Chapter 10: Consultant Selection, Section 10.1.3, new Safe Harbor Rate language